HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1482 (SS) OF 2005

Roop Chand Chuaudhary,
S/o Sri Chet Ram Singh,
R/o Vikas Khand Kalani, Raipur,
Dehradun,
Presently Gram Panchayat Vikas Adhikari Raipur,
Block-Raipur District-Dehradun. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Department of Panchayat Raj Dehradun.
2. District Magistrate, Dehradun. .....Respondents.

Dated : 06.03.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Arvind Vashisth, Advocate for the petitioner and Standing Counsel for the respondents.

2. By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order-dated 12/15.7.2005 contained in letter No. 272/आ0ले0-2005 whereby a direction has been made to recover a sum of Rs. 30,161/- from the petitioner and quashing the order dated 12/15.7.2005 whereby the petitioner has been suspended in contemplation of the inquiry passed by the District Magistrate Dehradun.

3. Briefly stated, according to the petitioner, he is a Gram Panchayat Development Officer and was posted at Gram Panchayat Raipur Block Raipur, District Dehradun. On

16.06.1992, the petitioner was appointed as Gram Panchayat Adhikari by the District Panchayat Raj Officer, Dehradun.

4. On 30.07.2004, the petitioner was transferred to the present posting and prior to his transfer, he was working with Gram Panchayat Sawala Kala within the same block.

5. According to the petitioner some complaints were lodged against the irregularities committed by Gram Pradhan Raipur and in this connection District Magistrate, Dehradun vide its order dated 12.07.2005 got an inquiry conducted by the District Rural Development Officer, which made it clear that some irregularities have been committed in three projects.

6. According to the petitioner, he was not given any opportunity before passing the order and he was not served with the inquiry report and further he was not called upon to submit any explanation against the findings recorded by the Inquiry Officer.

7. Petitioner has submitted that after receiving the order date 12/15.07.2005 (letter No. 272/आ0ले0-2005,he moved an application on 27.07.2005 stating therein that out of the alleged three Schemes, in which the irregularities were done, the work of third scheme i.e. construction of a protector wall in Raipur Khale was done by the then Gram Panchayat Vikas Adhikari Sri Shakti Prasad Bhatt i.e. before 30.07.2004. petitioner has further submitted that the work had been done in the supervision of the Gram Pradhan and payment had also been received by him, therefore, he cannot be held responsible.

8 The District Magistrate pursuant to the order dated 12/15.07.2005 (letter No. 271/आ0ले0 -2005) suspended the petitioner and an inquiry was contemplated.

9. A counter affidavit has been filed by the respondent no. 2, where it has been stated as under:

> *"8. That in reply to the contents of para 7 of the writ petition, it is submitted that the petitioner equally found guilty with the Gram Pradhan as he did not follow the procedure for withdrawal of amount for the payment. According to the procedure payment has to be made after recommendation of the Committee known as Construction Committee of Gram Panchayat, but in this case, the petitioner has withdrawn the amount having the nexus with the Pradhan without the recommendation of the said Committee and payment was made directly to the Pradhan. Moreover, being a Government official, the petitioner has found responsible than any one else. Regarding the application dated 27-7-2005 moved by the petitioner, it is submitted that on the application of the petitioner, the District Magistrate has directed to recover a sum of Rs. 13,623 from one Mr. Sakti Bhatt the then Gram Panchayat Vikas Adhikari alleged to be involved in the controversy.*
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> *10. That the contents of para 9 of the writ petition are misconceived and incorrect hence denied. In reply thereof, it is submitted that the suspension order was passed by the District Magistrate in pursuant to the preliminary inquiry*

report submitted by the Director, District Rural Development Agency, Dehradub and Sri A.K. Garg, Block Development Officer, Raipur has been appointed a an inquiry Officer. It is further submitted that the charge-sheet dated 29.9.2005 was supplied to the petitioner on 7.10.2005 which was duly received by the petitioner.

13. That the contents of para 13 of the writ petition are incorrect hence denied. In reply thereof it is submitted that the petitioner due to his negligence and he is more responsible than any one else for the Government work. It is further made clear here that the charges against the petitioner are related to the work done during the tenure of the petitioner at that place."

10. Petitioner has also filed a rejoinder affidavit, where he has stated that the order impugned passed by the District Magistrate is without jurisdiction and in gross violation of the principles of natural justice. The petitioner also replied the charge sheet dated 07.10.2005 on 05.11.2005.

11. In ***S S.K. Goel Vs. State of Uttaranchal and another, 2005 (2) U.D.11,*** the Division Bench has observed as under:-

"*Hence, it is incumbent upon the disciplinary authority consider whether a transfer of the officer will be sufficient or whether suspension itself is required.*"

12. In view of the aforesaid, in case in inquiry has not yet been completed, the respondents shall complete the inquiry within a period of four months from the date of presentation of

the certified copy of the order. However, in case the same is not completed, the petitioner will have a right to move the application for revocation of the suspension order.

13. Subject to above, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

06.03.2006

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